

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-380-W/S – ORDER NO. 1999-725  
OCTOBER 15, 1999

|  |   |                   |
|--|---|-------------------|
| IN RE: George Penington,                   | ) | ORDER <i>✓ MR</i> |
|  | ) | RULING ON         |
|  | ) | MOTIONS           |
| Complainant,                               | ) |                   |
|  | ) |                   |
| vs.  | ) |                   |
|  | ) |                   |
| Goat Island Water and Sewer Company, Inc., | ) |                   |
|  | ) |                   |
| Respondent.                                | ) |                   |
|  | ) |                   |
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion for Joinder of Complaint filed by George Penington (Penington or the Complainant). Subsequent to the filing of that Motion, the Respondent Goat Island Water and Sewer Company, Inc. (Goat Island or the utility) filed a Motion to Dismiss or for Alternative Relief. For the reasons stated below, we deny the Motion for Joinder and Motion to Dismiss, although we grant alternative relief as explained below.

The Motion for Joinder contains a number of allegations, and asks that additional complainants and respondents be added to the proceeding. The overall ambience of the Motion for Joinder is to attempt to relitigate old matters heard and ruled upon by the Commission in years past with regard to the utility. We believe that the focus of this Complaint is whether or not the utility should be furnishing taps to the Complainant. We

do not believe that additional complainants and respondents are necessary to the determination of this question, nor are the additional allegations in the Motion for Joinder. We believe that the proper parties are already before the Commission in this matter. We also note that the additional parties that the Complainant wishes to join in this complaint are not public utilities, and are therefore beyond the jurisdiction of this Commission. We also note that an adjudication of the Complainant's civil rights are beyond the jurisdiction of this Commission.

The Respondent utility moves that the Complaint be dismissed, inasmuch as the Complainant has failed to prefile his testimony in accordance with Commission Order No. 1999-635 in this Docket. Goat Island states correctly that none of the documents referenced in Complainant's "Prefiled List of Testimony and Exhibits" constitutes prefiled testimony by the Complainant. As the result of this failure, Goat Island states that Complainant has failed to prosecute his claim and the same should be dismissed. In the alternative, the Respondent requests other relief, including making the complaint more definite and certain, striking portions of the complaint, allowing the respondent to file an Answer, and re-establishing all prefiling and hearing dates so that the Respondent will give sufficient opportunity to respond to Complainant's prefiled testimony if and when it is filed.

Although we agree that the Complainant did not prefile his testimony and exhibits in accordance with this Commission's Order No. 1999-635, we disagree that the proper remedy is dismissal of the Complaint, nor do we think that complainant need make his complaint more definite and certain. The gravamen of the Complaint is clear. The

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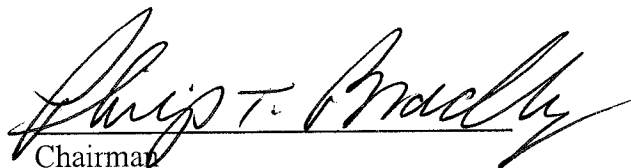
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Complainant is stating that the Respondent has refused to give him requested taps for his project. Further, since the complaint itself was initially oral, no formal written answer need be given. Both Complainant and Respondent can make their cases in their prefiled testimony and exhibits.

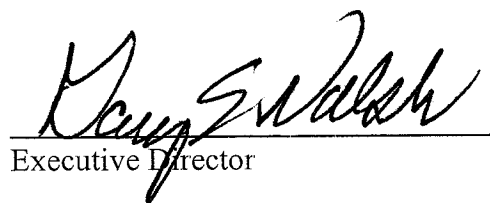
Accordingly, we deny the Complainant's Motion for Joinder of Complaint. We grant so much of Respondent's Motion as would allow the re-establishment of dates for prefiled testimony and the hearing, which shall be set by separate Order. We deny the remainder of the Respondent's Motion.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)